enter into with the developer.

MS. STREET: When you spoke of the Marriott Corporation putting up the Flagship Hotel, that would be an instance of a private corporation using borrowed funds to do the ground work, the start-up work?

MR. REGAN: In that particular project we utilized borrowed funds from the U. S. Treasury in order to acquire that site, and also in order to demolish the site and do other site preparation, utility work, that type of thing. We then offered that site under a competitive process to any developer in the country that cared to put on the site the types of uses that we had envisioned. Quadrangle Marriott was the successful developer selected by our board. We then entered into a lease agreement with Quadrangle Marriott whereby they were given the authority to build their project, and that lease agreement provides for a revenue flow back to the Corporation to repay the monies that we borrowed from the Treasury. The development itself would be done by Quadrangle Marriott on monies which they acquire on private--on the private loan market.

MS. STREET: Thank you.

MS. NAHIKIAN: Delegate Maguire?

MS. MAGUIRE: Fifteen people on this governing

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

board voted and decided that the federal government could in some way subsidize Marriott?

MR. REGAN: That's not correct. There is no subsidy whatsoever in that project. In fact, our board requires that any agreements that we enter into pay all of our costs for that project plus whatever holding costs the Corporation may have incurred as a result of time delays in getting the project started.

On that particular project we entered into a busine... deal with Quadrangle Marriott whereby we participate over the 99-year life of the lease that they have with us--we participate in the general revenue stream that they receive as a result of that project. So as the project becomes more and more profitable over the years, and we hope that that happens on Pennsylvania Avenue, the Corporation receives additional revenues over and above our initial investment in the site. Our best estimate is that we will receive several times over our cost as a result of our putting that deal together.

MS. MAGUIRE: I guess my confusion is that I don't understand what the federal interest is in the actual [inaudible]. Maybe it would help me more if I knew who these--this governing board is appointed by the President, correct?

MR. REGAN: That's correct.

MS. MAGUIRE: And--I don't know how to ask the question.

MR. REGAN: Is your confusion why we are doing anything at all on Pennsylvania Avenue?

MS. MAGUIRE: Well, I'm thinking in regards to this Committee's task and how we need to deal with intergovernmental relations and the federal interest, and in transition in providing for the Pennsylvania Avenue Development Corporation and ---

MS. NAHIKIAN: Why don't you think about it, and we will come back to you.

MS. MAGUIRE: Yes.

MS. NAHIKIAN: Delegate Jordan?

MR. JORDAN: Yes, I want to follow up on something that Delegate Maguire was asking, or at least the response that you made to it.

I, too, share a concern, I guess I might say, about the relationship that the Pennsylvania Avenue Development Corporation would have to the new state, and that is something I think we haven't considered at this point, because, as I understand your testimony, the Corporation has within its authority the ability to transfer jurisdiction of land.

MR. REGAN: It does not. If I left that impression,

it is incorrect.

MR. JORDAN: I understood you to say that in one area you were going to transfer jurisdiction of the land to the National Park Service, and in the other area you were going to negotiate with the District and the federal government--I mean, the Park Service.

MR. REGAN: In a written statement that I will give you, I will make this very clear. What I said was that we had hoped to reach an agreement between the Park Service and --among the Park Service, the General Services Administration, and the D. C. government as to the ultimate disposition of the lands within our area.

As far as we can tell, the general nature of that agreement would be as follows: the District would assume control over the streets, the Park Service would assume responsibility over the park plazas that we are constructing, the General Services Administration would then not have any future jurisdiction over areas north of their building line. But that would be only after agreement among those parties. The only people as far as I know who--the only body who can transfer jurisdiction of areas that are currently under the jurisdiction of the D. C. government is the D. C. City Council, and that's ultimately where that document,

that vehicle for transferring jurisdiction would go.

MR. JORDAN: One last point--and these ideas dont comport, and that's why I am trying to get you to resolve them for me. On the one hand, you said it is hoped that the Commission will go out of business in 1992, which is ten years from now; on the other hand, you said you have a 99-year lease with the Marriott.

MR. REGAN: That's correct.

MR. JORDAN: And that it was hoped that over the life of this lease that the Commission would continue to receive money in excess of what it has paid for securing the property and preparing the site for development in terms of utilities and what have you.

The point I want to make is, you are talking about another 89 years if we are only looking ten years from now. Is it possible for the Commission to go out of business in 1992? What happens to this profit, this lease arrangement pay-back agreement that had been entered into? Who would receive the monies from that?

MR. REGAN: This is a situation which is similar to that of jurisdiction: we build a park, who is going to assume jurisdiction of it when we go out of existence? We Our legislation provides--it states very generally--that

a successor agency shall assume the liabilities of the Corporation. In case of jurisdiction over our parks and plazas, we are working with the Park Service to assume that responsibility. In the case of our outstanding financial obligations, we are working with the Department of Treasury to assume that responsibility.

So the lease agreement, the monitoring of that, the administration of it, would go to the Treasury Department at such time as we go out of existence.

MR. JORDAN: Could it go to the District?

MR. REGAN: To the new state?

MR. JORDAN: Yes. Well, we don't have a new state yet, but could it go to the new state or could it go to the D. C. government, as it presently exists, as opposed to going to the Treasury? What I am seeing is a resource here, and the argument could be made that the federal government, the Treasury, gave the seed capital, so it should reap the benefits; but then, on the other hand, that would clearly not be a federal interest, and it would be better served in many ways, since the District is still going to be providing many services to that facility, and it is going to be compensated for us necessarily by the federal government, and this could be one way of compensating the residents, or at least the

District government for services that were provided.

MR. REGAN: In my opinion, no, simply because the seed money, as you call it, came from an existing legal agreement between the Corporation and the U. S. Treasury whereby federal funds were borrowed to provide the impetus for this development.

I would like to point out that the District's interests are more than protected in this, in that this development now would be paying property taxes; in addition, there would be wage taxes collected, because of the fact that the development has occurred. So it is true that we are providing seed money, but I think that the services that the District provides are compensated by the fact that the property taxes, increased property taxes, are levied on the project.

MS. NAHIKIAN: You may have already answered this question by responding to Delegate Jordan's question, but one of the questions I was going to ask was whether or not there were any arrangements within the jurisdiction of the Pennsylvania Avenue Development Corporation that gave any tax incentives or tax benefits, or any favorable taxing position, locally to projects that were built within the PADC jurisdiction.

MR. REGAN: To my knowledge, there are none. On properties that we own, we pay in lieu of tax payments, similar to other government organizations. When those properties are transferred to a developer, we then require that developer to begin payment of taxes directly to the District. And there are no special provisions at all involved in that.

MS. NAHIKIANS: Are there any bonds involved, revenue bonds that are floated?

MR. REGAN: There are none, no.

MS. NAHIKIAN: Is there any foreseen for the future for development projects?

MR. REGAN: No.

MS. NAHIKIAN: I didn't know whether maybe the Commission or the Corporation was looking at that as an option, given current economic conditions, or whether there was any ability to do that.

MR. REGAN: We have a wide range of authority within our legislation. We do have access to private lending markets if we care to utilize that option. To date, we have not; we have been able to get the funds that we need at rates which make the projects competitive as far as the Corporation's side of it are concerned. We have been experiencing slow-down from the private side, because of the

current financial conditions.

It is our feeling, though, that the future is--in the District it has always been this way--that the future is cyclical and we will in fact see an upturn, and that our location on the Avenue will cause our projects to move forward where others might have problems. The real estate market location is the prime consideration, and we think that when the market does ease somewhat that our projects will be moving forward.

MS. NAHIKIAN: Thank you very much.

MR. SCHRAG: Just one quick question. I am not sure I understand something that was said before. The 200 housing units that you are building, and other housing units that you may build--are any of these south of Pennsylvania Avenue?

MR. REGAN: No.

MR. SCHRAG: Is it possible that at some time in the future there will be housing where there is now federal office property south of ---

MR. REGAN: No. Well, in our plan, none that is not envisioned, and in fact our jurisdiction line goes only to that building line, so I would say in my opinion I know of no plans for that. The General Services Administration does

control the jurisdiction of the Federal Triangle, and just in the last two weeks they have come out with their own master plan for completing the Triangle, and in my review of that plan it provides strictly for some retail opportunities, but general federal office space for those parcels.

MS. NAHIKIAN: Retail opportunities could impact on us now.

MS. STREET: I would like to ask one final question.

Are members of this board paid? Are they salaried?

MR. REGAN: They are not; they are reimbursed for expenses, primarily travel expenses, but they serve without pay.

MS. NAHIKIAN: I would like the record to reflect that we have been joined by Councilman David Clarke, who is also a delegate at large and a member of the Local Government Committee.

Other questions?

Thank you very much. You have probably given us more to think about than we thought we had to think about regarding PADC.

We would appreciate any written comments or testimony that you might want to submit for the record,

particularly after looking at--you might want to look at that article in the draft on what happens to boards and commissions. You may have a comment about that.

Thank you very much, Mr. Regan.

MR. REGAN: Thank you.

MS. NAHIKIAN: Our next witness, according to our witness list, Ann Loikow, who is the Commissioner with the National Capital Planning Commission, but, Ms. Loikow, let me just ask what your time is like. Charles Atherton is here and has been here most of the morning. Could we ask Mr. Atherton to testify?

MR. ATHERTON: I would be happy to do so; on the other hand, I told your staff yesterday that I would really prefer to be later on the agenda. As it turns out, I have gotten ahead of schedule. So I really think it would be more appropriate if she went before me.

MS. NAHIKIAN: I just wanted to make that offer, because I knew you ---

MR. ATHERTON: I don't mind waiting; I am fascinated listening to all this testimony.

MS. NAHIKIAN: Thank you very much, Mr. Atherton. As I said, then, we will move forward with testimony from Ann Loikow, who is the Commissioner with the National Capital

Planning Commission. I should note for the record: appointed by the Mayor.

Thank you very much for joining us this morning.

STATEMENT OF ANN LOIKOW, COMMISSIONER, NATIONAL CAPITAL PLANNING COMMISSION

MS. LOIKOW: I guess I should state first of all for the record that I am speaking as an individual and not according to the official position of the Commission. I guess I should start by just sort of explaining to you what the Commission is, for those of you who are not too familiar, and then sort of the scope of our functions as they affect the District of Columbia, and whatever questions you have would probably be the most fruitful way for you to get the information that you need.

The National Capital Planning Commission's basic authority is found in the Planning Act of 1952, which was substantially amended by the Home Rule Act in '74. Our current composition is a mixed federal-District body, but we are a federal agency in the executive branch, subject to all the things any other federal agency is. The Commission consists of three Presidential appointees who are appointed for six years, two--who are citizen appointees--two citizen

appointees who are residents of the District of Columbia, who are appointed by the Mayor--and I am one of those--whose terms are four years. And then the other seven members are all ex officio members who are there by virtue of their position, in that you have the Mayor of the District of Columbia, or his representative, who is normally the planning director; the chairman of the Council of District of Columbia, or his representative; a representative from--or the Secretary of Defense, and it is usually one of the planning officials under the Secretary of Defense; the Secretary of Interior, and that is normally, or has been for the last number of years, John Parsons, whom I think you heard from earlier today; and then the Administrator of the General Services Administrator, and normally it's the planning person for GSA; then we have the chairman of both the House and Senate District Committees, or, in the Senate's case, the Senate Governmental Affairs Committees, and it is usually delegated down to the chairman of the subcommittee that deals with the District of Columbia, and then to a staff member of that Senator, which in this case would be Senator Mathias--on the House side it would be a representative of Representative Dellums staff. I think I have covered the whole range; it should end up to be twelve members.

51

The Commission's basic function is to be the federal planning agency for the National Capitol Region, which includes the counties of Montgomery, Prince George's, Loudon, Fairfax, Prince William, the District of Columbia, and all the independent cities within that area. Because prior to home rule the federal government controlled the District much more tightly than it still does right now, the Planning Commission was in fact the local planning agency for the District of Columbia, and up to that point all comprehensive plans and major planning decisions came out of the NCPC. Since '74 and the effective date of the Home Rule Act, there has been a split with a number of the local planning functions transferred to the Mayor and then from the Mayor to the Office of Planning and Development at the present time. The Planning Act, as amended by the Home Rule Act, contains substantial sections on the development of the comprehensive plan, which is published jointly by the NCPC and the government of the District of Columbia. And the way the split in jurisdiction basically works is that the District, through its planning office, develops and presents to the Council all the local elements to the plan, which the Council then adopts and refers to the Commission, who makes the finding of whether or not they have a negative impact on the federal

interest. If they do, the Commission in effect has veto authority and can send them back to the Council and to the city for amendment.

The Commission, on the other hand, develops the federal elements, and when both sides have gotten all their elements together and the District ones that have been found no adverse impact on the federal interest, then the whole thing is published as one document, which would be the comprehensive plan for the District of Columbia, and then would serve as a guide plan for federal agencies and sort of notice to other jurisdictions around the region who might be affected by the federal elements of the plan.

The Home Rule Act also provides that the zoning regulations of the District of Columbia shall not be inconsistent with the comprehensive plan, so that there ultimately should be, at least in the theory, the way it was set up, some kind of in a sense application and implementation of the plan through the zoning regulations.

So far, the District has adopted one element, which is its goals and policy statement. The National Capitol Planning Commission's first element was one on the location of foreign missions, international agencies, and it has since adopted in the last year federal environment element and our

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

53 own goals statement, and we are working right now on what we hope will be a joint element with the District on historic preservation, and then we are also working on an open space element, federal facilities and federal employment, and hope to get our part of the plan out within the next year or less, with most of it at least in draft by the summer.

As far as the Commission's--the major part of its functions have to do with recommending, advising, other federal agencies on their master planning of specific buildings, on sort of coordinating them with other agencies. We also, under the Zoning Act for the District of Columbia, are--since all federal property is unzoned and exempt from the application of D. C. zoning regulations and Zoning Act, we are in effect the zoning commission for the federal government in the District of Columbia. So when you have a federal building project, we are the ones to which the application is made and who has to approve the height, bulk, and all the normal kinds of zoning things for it.

So, as was mentioned by the gentleman who spoke for PADC, we would get anything that would be a public improvement paid for by federal funds, owned by the federal government, we will have to have before us GSA's master plan for the Federal Triangle, and we will have to approve in effect this year the

54

zoning authorization for any building that GSA may want to build in that area.

We also have a number of areas where we get into, besides the comprehensive plan, into D. C. authorities. Among other things, for District of Columbia building plans that are in the central area of the city, which is mutually defined by the Commission and the Council--and I think I gave your chairman a map that showed the basic outline of that--we are in effect again the public body who issues the building permit. An example would be the Convention Center. The Commission had to approve it, and it couldn't be built without our approval.

We also have approval authority over the transfer of jurisdiction over D. C. land and buildings, if you want to transfer it back and forth, and we have the same approval authority over federal transfers of land and exchanges of land. Oftentimes it would usually be exchanges. It was proposed, say, on the Georgetown waterfront between the District of Columbia, some of the land that is used by DOT and the National Park Service, if it became a park, then we would have to approve that land transfer.

Urban renewal plans under the Urban Renewal Act are sort of jointly developed by the Planning Commission and by

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

the Council, and we both have to approve them, and approve any modifications or amendments.

We also have a number of advisory functions, which we see and comment on, and are required to comment, by statute on various District planning actions, such as the closing of certain streets and alleys, changes in the District of Columbia's zoning regulations and maps. We comment on master plans for major D. C. government installations, land acquisition, off-street parking. We also have approval authority on some funny little things like harbor regulations, and there are a whole lot of minor statutes that give the Planning Commission miscellaneous authority over various kinds of planning activities, some of which were changed in Home Rule and some of which we still have approval authority.

The Mayor, over the last couple of sessions of Congress, has presented various bills to the Congress to take away some of the various kinds of authority where the Planning Commission has approval authority over District actions, and make them totally District. And to this point nothing has really happened in that area.

The planning area, I guess as you have heard and will hear from Mr. Atherton and the other groups, is one of the areas where there is a lot of mixture of federal and local

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

involvement. Under the Zoning Act, both the Zoning Commission and the Board of Zoning Adjustment are joint federal-District bodies. The National Capital Planning Commission under the Zoning Act names a member to the Board of Zoning Adjustment. You also have, on the Zoning Commission, the Architect of the Capitol and the National Park Service. As it turns out, the same representative of the National Park Service that sits on the Zoning Commission also sits, as a representative of the Secretary of the Interior, on the Planning Commission. So that it is one area where there is a lot of involvement.

I looked at your section in your draft language, the one area where it would be a little bit complicated in applying it to the Planning Commission on the transfer--what would be the effect on boards or commissions after statehood would be, one, the fact that you have sort of joint appointments, both by the Mayor and by various federal agencies and the President. So you might have parts under one authority still remaining and parts under the federal side.

I would think that if the District of Columbia did become a state, there would still be some kind of federal planning body, and that the kinds of jurisdiction that that body would have would be very similar to that which it has

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

throughout the region. And that you would lose a lot of these miscellaneous authorities which we now have, approval authority, over the District of Columbia or the right to look at fairly minute decisions, such as street and alley closings by the District. But you would need a body who would be looking after coordinating all federal agency plans, basically advising them in a planning sense and having some responsibility for what the federal government activities were in the region and how they interacted together in a planning sense, rather than having the Department of Defense going off and doing its thing and GSA doing its thing somewhere else, which could lead to much more chaos than we already have. And you would also need a body in terms of the approval of federal land transfers and federal buildings, but you would presumably lose all the authority that we have over District buildings and District land transfers, and all the rest. And also I guess presume the Commission would have then some special Act in whatever federal enclave or federal territory was still left in the mill, which the Commission has been the primary planner of throughout its history.

Any particular questions?

MS. NAHIKIAN: I think we probably have several. Let me start out by asking you just briefly--you have indicated

58

that in looking at our draft that you thought there was some need for continuation of some kind of federal planning body.

MS. LOIKOW: Well, I think what you will find happening is that the Planning Commission's role is not just District of Columbia, it's regional. And so what you would have would be a splitting of its strictly federal government functions from those that involve the District of Columbia in a different sense than they involve any other jurisdiction in the area.

MS. NAHIKIAN: Well, I just wanted to note that I think your comments are interesting, given your perspective as one of the citizens, you know, appointed to NCPC. We heard earlier today, and had some interesting discussion with John Parsons from the National Park Service where he was trying to react to that issue, too.

And he made the comment--he said, I see in your draft that you have drafted us out of sitting on a local zoning commission, but the question we asked him was what do you see as some kind of continuation, and specifically is there a need to draft that into the constitution?

MS. LOIKOW: I don't think there is a need to draft the NCPC or something into the constitution. I think what you will--I mean, you will have to have worked out in probably

59

the Admissions Act or some other statute would be the appropriate place rather than the constitution, as to how these bodies would be reconstituted, because their authorities are all mixed up right now under federal law and local law, and you have got to split out, which the Home Rule Act did in part but not completely, those functions which are federal and those functions which are District, and each have their own separate bodies.

Another example of one which came not so much by statute but more of desire and necessity of the individual agencies is the Joint Committee on Landmarks, which Mr. Atherton's commission, the Fine Arts Commission, the National Capital Planning Commission, and the Mayor jointly established originally as an advisory body, since we do have a number of planning issues that involve historic preservation and we wanted a body of experts to advise us on particular applications on planning impacts on plans that would involve that.

Subsequent to that, the District of Columbia passed its own landmark legislation which replaced earlier Commission's orders and greatly expanded the role of the Joint Committee, which is in effect acting as the board of historic --historical review board--for the District, which is a

different hat than its advisory role to us, and under that legislation the Mayor has the authority to set up its own historical professional review board, which is also required under various federal regulations in terms of nominations to the national register and the federal historic preservation program, but for reasons of convenience, having the same body of experts having this overlapping authority for funding, since the Planning Commission basically gives the office space and a lot of the funding to the Joint Committee as a commission. Up until now it's been sort of a jointly operated, jointly appointed body.

But that conceivably would be one area which could or could not be divided up, depending upon how you wanted to handle it in the future. And I would think you would probably have your own District professional historic review board set up, and we would still have some kind of advisory board to the federal planning agencies as to the impacts of their actions in that area.

MS. NAHIKIAN: Delegate Moore?

MR. MOORE: My question is relative to what was just said. I assume that the National Capital Planning Commission was instituted more or less to protect the federal interest, is that correct?

61

MS. LOIKOW: That's correct, it goes back--its original origin was as a park and planning commission, and it was more interested in the park areas, and it originally had such people as the Corps of Engineers and other groups like that on the Commission before it was reconstituted, so it was, you know, the federal government doing all kinds of planning. And I was trying to explain, we do have a lot of interest in just kind of coordinating the federal government's planning efforts throughout the region, in which case our treatment, if you deleted all the sections which gave us specific approval authority or the specific right to review individual kinds of District actions and put the District as a state in the same role and place as Fairfax County or Arlington County, state of Maryland, state of Virginia.

MR. MOORE: Okay, now, my question specifically is, do you see, when we become a state, the District, do you see your power in this Commission as being diminished, or will it be on a par with Montgomery County, or how do you look at that?

MS. LOIKOW: Okay, our authority would obviously be diminished because we have approval authority over certain District of Columbia actions which I would think would go to the state of Columbia rather than being partially federal as

they are now; it would just be approval of transfer of District lands or the approval of certain District building projects.

But in terms of the authorities that are left in the general coordination and planning for the federal government, our authority would be roughly the same and would be the same as it impacted Montgomery Country as it impacted the District of Columbia. Now, I have here some various maps I can show you--federal lands--which I can leave with you, land use. This is in the L'Enfant City and this is in District of Columbia. We would obviously still--since the federal government is the land owner of a lot of these things--be involved in the planning or working with the agencies that are doing the individual planning, whether it's the Park Service, the Department of Interior, GSA, the Pentagon, Department of Agriculture; we have major federal facilities that are outside the District--in fact, I think there are more federal employees outside the District than there are inside the District, in the region now, when you think of the large installations that you have at NIH and the Pentagon, you have the Beltsville Agricultural Center, the whole lot of planning issues. So our authority should be similar in those areas as it would be in federal property in the District, and in terms of coordinating

with the government of the state of Columbia, or whatever it's called, as well as we would with the states of Maryland, Virginia, or the local subdivisions of those states.

MR. MOORE: Thank you.

MS. NAHIKIAN: Delegate Schrag?

MR. SCHRAG: Two questions. One has to do with the drawing of the boundaries of the state. A couple of hours ago, Congressman Fauntroy urged that instead of the approach that we have taken in the draft that you have, which is to leave the drawing of the boundaries up to the Statehood Admissions Act, Delegate Fauntroy urged that we set out a set of boundaries, because he said it would be easier for us to do it than for 435 Representatives and 100 Senators to grapple with that issue with as many different opinions.

If we were to do that, from your knowledge of the planning land-use area, what should we do with the streets and sidewalks? When we draw a line, should the dividing line between the state and what remains of the federal district be down the middle of the street--does that create very difficult jurisdictional problems, street repair problems?

MS. LOIKOW: It gets your jurisdictions confused as to who actually has authority, if it's down the middle of the street, which means you are going to have to work out who

64

owns it. The classic example I can think of recently is Woodrow Wilson Bridge. As I understand it now, the District controls and the federal government controls the bridges, Virginia is stuck at one end and Maryland is stuck at the other end, and you have got a no-man's land and Congress has been throwing its hands up and just recently decided they were going to pay for certain resurfacings and improvements on it.

It's obviously much easier administratively if it is clear who has authority over which pieces.

When you are speaking of those streets, one of the things that is sort of buried back in the law of the District of Columbia is that a good percentage of your streets and alleys are federally owned, going back to the way the city was originally set up, which means probably somebody should look into what the impact of that is in terms of any transfers and the District becoming a state. Like, historically, if any of you have been involved in alley closings, there is a whole lot of case law that goes back a hundred years or more as to what rights the various governments--the District government and the federal government--have to collect money for closing those alleys, which goes back to how they were created and whether or not they were actually federally owned

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

originally or whether they were just given over by the particular landowner for the use of the public way, at which point, when that was closed, it reverted to the owner of the property. And there is a whole lot of very arcane land and title problems involved in streets and alleys, particularly the more you get toward the center of the city and the more you are in the old L'Enfant city.

MR. SCHRAG: But if we have to draw a line somewhere, if we accept DelegateFauntroy's advice, and you are advising us against drawing it down the center of the streets, where should we draw it? Suppose we were to take Constitution Avenue, for example, as one of the boundary lines, should we draw it at the juncture between the street and the sidewalk?

MS. LOIKOW: I would think you would almost want to go to the building line on the other side of the street, so that the street and the public improvements on both sides are in the same hands.

MR. SCHRAG: So it should be federal, so that ---

MS. LOIKOW: Just esthetically, so you had the same kind of lampposts on both sides of the street and the same kind of trees planted, so there was a unity to the street front, and also into its maintenance, and so you didn't have the case where you had the Park Service maintaining one side

66

and it was all very lush and the state on the other and it was running out of money because it was, you know, paying for all other kinds of things that you had everything sort of bedraggled--I mean, I would think you would want all--you would want it all in one hand or the other so that you could do some planning that would visually be a whole and work together.

MR. SCHRAG: That's very helpful. My second question has to do with the National Capital Planning Commission. Section 7 of our transition draft, as you noticed, we provided that boards, commissions or other agencies whose duties are consistent with the constitution, which include federal members, shall continue to function without the federally appointed officers. The classic example there is the Zoning Commission.

MS. LOIKOW: Right.

MR. SCHRAG: I think maybe we would be clearer there and say boards, commissions or other agencies of the District of Columbia whose functions--and so forth. And make it clear that we did not intend to include the National Capital Planning Commission.

MS. LOIKOW: Which is clearly a federal ---

MR. SCHRAG: Which is a federal agency. Now, if we

67

were to do that, which would have--for the purpose of postponing dealing with NCPC issues until the Statehood Admissions Act--would that be sufficient, or do you think we need to do anything else in this constitution as opposed to the Statehood Admissions Act about the NCPC?

MS. LOIKOW: I wouldn't think you would have to. I see the NCPC as more being a statutory problem as to how the federal government is going to work out its relationship with the District in terms of the federal government's planning responsibilities. And it would seem to me that it would be much more appropriate to do it through statute, because it is a federal agency, it does have federal responsibilities, it is not strictly related to the District of Columbia.

And I would think it would also be something that the federal government would sort of want the major say in saying what its impact would--you know, how it would be reconstituted. Whereas, if it were in your constitution--I mean, there is really a difference between those and those agencies which are strictly District of Columbia. I think that would probably solve that problem.

I should probably just mention for the record, for those of you who may be aware or not aware, there is another potential federal-District body in the process of creation on

68

Capitol Hill--where it will go, no one knows at this point--which is in the Diplomatic Reciprocity Act, and is a body which is kind of--that the most recent incarnation of is a combination of the Zoning Commission, which is three District appointees, and two federal agency representatives, plus the Chairman of the National Capital Planning Commission and the Secretary of Defense, which would give you four federal officials and three District citizen representatives, which would have authority over the planning and sort of zoning and all the related things for location of embassies, chanceries. I think, if the State Department wanted them to, expand it to international agencies, which would affect a good number of areas all across the District.

So just sort of be aware that that is in the works to complicate your work.

MR. SCHRAG: That, too, would be a federal agency, so technically, if we were to pass the constitution with the little change I just mentioned, we wouldn't have a technical problem with that.

MS. LOIKOW: Right.

MR. SCHRAG: Where we would have a problem is the question whether that is inconsistent with the concept of the sovereignty of the state for the federal government to have

69

that function, or for a federal agency to have that function.

MS. LOIKOW: Right.

MR. SCHRAG: And if the Congress passed the law you are talking about and then did nothing to change it in the Statehood Admissions Act, presumably it would be then a matter of ---

MS. LOIKOW: It would be a joint federal compact of some sort.

MR. SCHRAG: --- a [inaudible] issue of federal constitutional law whether the federal government could impose those restrictions on any state.

MS. LOIKOW: Yes.

MS. NAHIKIAN: Delegate Street?

MS. STREET: I would like to have you give an example of how you function in one of the counties. What I am trying to put together in my mind is the function of your organization in regard to land in counties.

MS. LOIKOW: Let me give you a couple of examples. For example, in Prince George's County there is an extensive group of federal landholdings in the Beltsville Agricultural Center, we have the NASA Goddard Space Center, I think the Secret Service has a little bit out there, and there is a number of small agencies that have various pieces that are

70

all in a major--it's a very large landholding.

All those different agencies make their own master plans; they come to us, we review them, advise them on what their various impacts, we make them consistent together. When they have--or there are various actions of the county or the various towns that are adjacent to them, such as building a road, like the cross-county connector in Maryland that is supposed to go through part of the Agricultural Center, then we would work with the county and the state of Maryland, commenting on the impact of that road, how it was designed, where it was going through on those federal facilities and their operations, or, you know, how they operate and the impact going both from the federal facility onto the local jurisdictions, and the local jurisdictions, or state in that case, impact on the federal facility.

We also act in sort of coordinating all these different agencies, so that when a county or a city or the state wants to do something, we bring together all the agencies, get them informed of what's going on, and kind of help them act in concert with each other rather than having the jurisdiction have to go to each one individually to figure out who might be involved or affected on the federal side.

We also act, since the federal agencies inform us

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

what their plans are, what the status of their various facilities is, and we can act as an early warning system to the jurisdictions to tell them, hey, this agency is about to do this, if you want to help get in on the planning, you know, you can contact. As an example of that recently, [inaudible] additions being built to the CIA building in Langley, where we contacted the Fairfax County and got them involved in those plannings for that facility fairly early on.

So it's general planning coordination for the federal government across the region.

MS. NAHIKIAN: Other questions? Let me just ask you, Ms. Loikow, if you would be willing to--since I know you have a lot of interest and involvement in local planning issues, not as a member of NCPC--as you have had a chance to review our draft, under our local government provisions and ourrecommendations for local government entities, one of the things that we have tried to address in terms of the functions of both the neighborhood councils and what we now call ward councils, although our Congressman suggested we go ahead and call them counties--not be shy about it, just go ahead and put it out there--do you have any comments about the kinds of language that we have used in our draft regarding the role of local government kind of entities, regarding zoning and

72

planning?

MS. LOIKOW: I guess the first thing that struck me, because I just got this yesterday afternoon and read it today, was how much it was similar and obviously drawn from a lot of the ANP legislation. As a former ANC commissioner, I appreciated how that system has been operating in the District, and the benefits that it does provide to local residents of the District on a neighborhood level. And I think it is--I mean, to me the most important thing about the ANC system as it currently exists is notice, that the government is required to tell you up front and as early as it can what they are going to do in your neighborhood, so that you have a chance to get involved in public processes, whatever they may be, depending upon the agency or the action, and to represent the views of yourself and your neighbors on whatever the impact will be locally.

So I was pleased to see that the way you had put that all together. The idea of having counties or ward councils or whatever you want to call them I think is kind of interesting. I haven't really had a chance to really think it through much as what the impact of it was. I have sort of--when I read it, I was thinking of a lot of the other kinds of bodies besides ANC's which we have in the city that

73

don't overlap right now. And if we could get some kind of congruence like fire districts, police districts, the service districts for the Department of Environmental Services, the neighborhood planning--I mean, all these various kinds of bodies, if there was a way to bring some order out of all that chaos so that you would always be responding to the same people in the same area, and you would know sort of where you belonged and who you should be going to for whatever questions or needs you had in terms of public services. I think it would be a lot simpler rather than knowing that your police district covers, you know, parts of this ward and that ward, and your environmental services district and whoever the regional person is, is that one, is this one, and the neighborhood planning council is a whole different one, and then your ANC is a whole different one on top of that. Just bringing some order out of that and simplifying the administration of it would be a very beneficial change.

MS. NAHIKIAN: Let me just draw your attention for a moment to how we define "powers."

MS. LOIKOW: Which page and section?

MS. NAHIKIAN: This is page 2 of the draft, neighborhood council powers, Section 5, and Section 6 is ward council powers and Section 7 obligations of the state.

Basically we have said that at the neighborhood council level the neighborhood councils would advise the state government regarding zoning, planning, etcetera, and then at the ward council level, where your neighborhood council members and your legislators come together, we recommended strengthening, at least in my view, the role, the local government role, in the sense that we have said that, in part B, that they would negotiate regularly with respect to policies and delivery of services, and then in C oversee the delivery of services and implentation of policies. Then if you move down to Section 7, where we talk about obligations of the state, if you look at B--well, A is the timely notice obviously, B is to considering giving great weight--but C and D I think strengthen considerably the obligations of the state to local government in terms of requiring a statement in writing for any decision in which recommendations of the neighborhood council were not accepted, and D, to negotiate in good faith with each ward council with respect to policies and services.

So it's a way of strengthening what we have now but hopefully moving toward ---

MS. LOIKOW: Yes. In reading the language, depending upon how it actually would be implemented, a lot of it

sounds similar to the way that some agencies work, say, with ANC's now, like in Zoning Commission actions you actually do have in the order an actual statement of what the ANCs' testimony was and how the Commission either took it or didn't take it. A lot of other agencies barely know that ANC's exist.

In terms of negotiating, you have to think about each kind of service as to how you could actually do that; I mean, you have somebody, like a lot of your planning bodies, like the [inaudible] and the Zoning Commission which are adjudicatory in the large sense, where you really can't negotiate in the same sense that you might be able to, say, with the Planning Office, or if you had a planning commission, or that maybe you could with DOT on whether they are going to put stop signs on your street--it depends upon the services as to what these words would actually mean and how much authority you would really give to various local bodies. Right now I am not really sure how much more authority you would--you would be simplifying the administration, it would be just one body at each level that you would be dealing with, and it would be very clear who the agencies which should respond to, rather than have each of them have their own advisory bodies of various types and their own different kinds of jurisdictions. And I think you will have to work

76

out a lot of the relationship between the different entities of the state government and how they react to each other, and then how it works down through the ward level and the neighborhood level.

MS. NAHIKIAN: I think the Committee would be interested in any further kind of comments or written statement you might have regarding the ---

MS. LOIKOW: Okay.

MS. NAHIKIAN: Are there other questions from the delegates?

Thank you very much.

MS. LOIKOW: And if there is anything else I can help you get that you need in terms of the kinds of action the Planning Commission does, or maps, whatever, please let me know.

MS. NAHIKIAN: Delegate Moore has mentioned that perhaps it would be helpful if you could give us some kind of statement in writing--the record will be open--because we would like to have it included in the record.

MS. LOIKOW: Okay.

MS. NAHIKIAN: Our next witness is John McKoy from the D. C. Office of Planning and Development, and you might introduce the colleague with you.

77

Let me just initially express our appreciation for your coming and being here, and take it from there.

STATEMENT OF JOHN McKOY, EXECUTIVE DIRECTOR, D. C. OFFICE OF PLANNING AND DEVELOPMENT, ACCOMPANIED BY ALVIN McNEAL.

MR. McKOY: I have with me Alvin McNeal, who is the head of our comprehensive planning unit, and I believe Alvin had provided the Convention and your Committee with some maps last week on boundaries.

I would like to thank you for inviting us to testify. I am John McKoy, Executive Director of the Office of Planning and Development. Our office, if I could spend one minute describing the function of our office--primarily we are the Mayor's planning agency, responsible for the production and maintenance of the city-wide land use, or the comprehensive plan, responsible for providing staff support to the Zoning Commission and the BZA, responsible with the Mayor for helping to coordinate major development projects within the city, and also responsible for evaluating and reporting to the citizenry on the decennial census and keeping sort of a central file on census and land use data in the city.

78

But I will be speaking very briefly about the function of statehood. I have just received the draft, and I do have a couple of comments, which obviously aren't in my statement, but after I go through my statement I would like to make a couple about some things in the draft.

I think there is a need to evaluate the existing administrative procedures with various inter-governmental bodies, not just bodies which are within the purview of the District of Columbia right now. And following Ann Loikow, I think you, aside from NCPC, PADC, Joint Committee on Landmarks, as well as a number of others--but those I would say are the primary ones--it would not be clear to me that the relationship between the current District and our representation on those bodies as it now stands would be the same if we were a state. I would submit that you should look at that.

A couple of things with respect to NCPC specifically. You might want to consider narrowing the review function that NCPC now holds with the District. To pick a couple of issues, for example--reviewing all of the zoning cases before either the BZA or the Commission--I am not sure that would be necessary if we were a state for NCPC to do that; reviewing all surplus property transactions that the District engages in--I am not sure that would be necessary if we were a state.

79

The whole relationship in terms of NCPC and urban renewal might be looked at, even though most of the urban renewal parcels have now been sold and are in the process of being built upon. There are still a few, and you might want to look at that.

I think you should be cautious about the idea of federal enclaves, and I think when I read some of your previous literature I misunderstood what you were talking about in terms of boundaries. But the idea of cost-sharing and the function of the federal payment I think is a key one right now; witness St. Elizabeth's; if we were forced as a state to take over the full cost of that institution, needless to say it would radically change the allocations within our operating budget.

So there needs to be some method--and I see in the draft you have addressed the contracting method of sharing costs with federal establishments, because almost half the land, as you know, in the city is beyond our control; over half is non-taxable and almost half of it is federally controlled.

You mention, not in your draft here, but earlier, the idea of going to a county system. I think it's appropriate to look at that. However, if you look at typical county

functions, you should be careful, I think, not to get in a position whereby you are creating inequities in terms of services. For example, if you created eight counties with the boundaries of our eight wards now, and each country were responsible for some local services that they were to provide based on the revenues they generated within the county, then, just to pick one example, the difference between services Ward 3 could provide versus Ward 7 or 8 might be considerable. If you are talking about a county system where the budget somehow is allocated by a different method and not just based on the taxable revenues that county could provide, that's different. Or if you are talking about a system whereby, as in the draft, it's primarily an advisory function and it is not raising revenues for its constituents, that's different.

The whole idea of counties, although on the surface it may be useful, if you examine what counties normally provide, you don't want to get in a situation where you are creating obvious inequities because of the distribution of income that exists.

I would suggest that by and large the zoning function be left as it is, although I think the idea of a planning commission merits some consideration--a local planning commission. Many states, you don't really have a state planning

commission; you have county and city planning commissions and the state governor's office has a planning office and maybe a ceremonial commission, but it's not the land use type of commission. So the analogue here would probably be more like a county planning commission for the whole jurisdiction.

I already mentioned the federal payment.

I have attached, for your information, a chart at the back which indicates the breakout of land distribution in the District.

If I could, I would like to turn to your draft. I guess this is the first page under intergovernmental relations, the article on intergovernmental relations, under Section 2, about the middle of the page: "At the request of the federal government and with the consent of the legislature, the governor shall negotiate contracts," which I would take to be in lieu of what we now call the federal payment. The first question I would have is why at the request of the federal government? And, secondly, under item 2 under that section, foreign embassies and chanceries, the implication is that the state would negotiate with the foreign embassies and chanceries and the State Department would have no role, since they are not mentioned.

And I am just curious about whether that was

82

omitted purposely, or how that would operate.

MS. NAHIKIAN: Just a quick comment there. If you look at the phrase right above it, it says "The governor shall negotiate contracts with the federal government to provide police, fire, etcetera, first to federal buildings and other federal property, and, two, to foreign embassies, and finally the federal district," which I think what we are implying in this draft is that negotiations would go on between the governor and the federal government rather than our negotiating directly with an embassy.

So it would just be for the provision of services to those ---

MR. McKOY: So if the federal government did not request such a negotiation, then the implication is that the federal government would pay for, by itself, somehow, those services which we now take care of.

MS. NAHIKIAN: Delegate Schrag?

MR. SCHRAG: If I might reply, I think the idea is it takes two to make an agreement, and it would be presumptuous for the state to tell the federal government that it was going to charge money for the provision of these services. A more seemly procedure would be for the federal government to come to the state and say we have a certain need for

MILLER REPORTING CO., INC.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
(202) 546-6666

services to be provided; you are able to provide these services; let's talk about a price. And that phrase, "At the request of the federal government," is really a kind of courtesy to the federal government, encouraging them to initiate this process rather than a procedure whereby the District, the new state, might initiate the process and imply that it was going to withhold services unless payment was made for them.

It's not a very important phrase in legal terms, because it takes two to make the agreement in any event.

MR. McKOY: Okay, the only other quick comment in quickly reviewing, on page 5, Section 7 ---

MS. NAHIKIAN: The controversial Section 7.

MR. McKOY: Is it under transition?

MS. NAHIKIAN: Yes.

MR. McKOY: Yes. And just again--I didn't understand, using the Zoning Commission as an example, that boards and commissions would remove the federal representatives--there would be two people on a five-member Zoning Commission; but then "no vacancy shall be deemed to be created," so does that mean, then, the Zoning Commission will be a three-member commission?

MS. NAHIKIAN: Until the legislature or the governor

84

recommended otherwise. This would just be for that transition period, the federal representatives would drop off, it would become a local body. And obviously, I think, any legislator or governor would decide it had to be bigger and go about constructing that.

But this would just be in the transition.

MR. McKOY: Okay, that completes my comments.

MS. NAHIKIAN: Mr. McKoy, you indicate in your testimony that you thought that the Zoning Commission should basically stay as it is. Obviously that conflicts with our draft in the sense that we are thinking that zoning, which is locally a state function, or traditionally a state function, that there would not be a need for federal representatives on the Zoning Commission.

I just wonder if you have any comment about that, or whether you think there is a need for federal representatives.

MR. McKOY: I don't think there would be the need to have as predominant a balance, that is, three-two, or maybe four-one, local. I think probably there is some advantage to having some federal representation on the Zoning Commission, but I haven't thought that through, like what the numbers would really be and how big the commission should be

and so forth. Definitely I think you would want to have more local representation.

MS. NAHIKIAN: Any other questions? I have one more.

Any comment about boundaries?

MR. McKOY: In what sense? That's what I said I think I might have misunderstood.

MS. NAHIKIAN: In the sense of this. Our draft at this point indicates that there would be a federal district but that we specifically did not draw boundaries of the new state. I know you address that in your testimony. We have had other kinds of advice this morning in our hearings; specifically, Congressman Fauntroy pointed out that four Presidents have appointed commissions to define boundaries of the federal enclave, and they have never done it--they keep going back and saying, well, we can't do it.

Do you think it's appropriate, and do you have any advice about our Committee going about actually specifying boundaries of the federal enclave in the constitution? You may want to think about it and submit comments later, as you have just seen the draft.

MR. McKOY: If you are talking about the issue that was raised to Ann Loikow about whether you go down the middle

of the street or use the building line--and I think Ann is right; I mean, if that is the nature of the question.

MS. NAHIKIAN: But it also includes a discussion maybe about our recommendation that the feds would continue jurisdiction over the bridges and the River.

MR. McKOY: I'd like to think about that.

MS. NAHIKIAN: Delegate Moore?

MR. MOORE: I am making reference to page 2 of your statement, and I wonder if you would emphasize a point--"I would suggest that zoning be left as it is, although you might want to consider setting up a planning commission, and then obviously this would need a lot of study." I mean, could you emphasize that a little bit more, about leaving the boundaries just as they are?

MR. McKOY: Well, that's what I said; I misunderstood. I thought you were talking about generally the boundaries of the District, the peripheral boundaries of the District, as opposed to the internal--how you would carve out a federal enclave.

MS. NAHIKIAN: Other questions? Mr. McKoy, thank you very much. Please, the record is going to be open and the Committee will be going back to doing final drafts, and based on the public hearings. If you have additional comments

or suggestions, we are certainly open to them. And I also want to take this opportunity to publicly thank you for the help that your staff has given us in terms of maps and lots of information that we had to ask for.

MR. McKOY: Thank you.

MS. NAHIKIAN: Our next witness is Mr. Atherton, Mr. Charles Atherton, Secretary of the Fine Arts Commission. We appreciate your patience.

STATEMENT OF CHARLES ATHERTON,

SECRETARY, FINE ARTS COMMISSION

MR. ATHERTON: It's a pleasure to be here, and, as I say, I am glad I came early; I found the questions and answers that were being given this morning very interesting and very provocative in many ways.

My name is Charles H. Atherton, I am Secretary and Administrative Officer of the Commission of Fine Arts. I appreciate the opportunity to appear before you today and to comment on the Commission's role in relation to your deliberations of the Statehood Constitutional Convention and the District of Columbia government.

As you know, the Commission is an independent federal agency, having been initially established to advise the Congress, the President, and other department heads of

the federal government on the design of projects affecting the appearance of the capital. Subsequently, the Commission's role was widened to include advice to the District of Columbia government, first through an executive order regarding civic architecture, such as schools, libraries, and courthouses, and over the years public works such as bridges and highways.

In 1930 Congress enacted legislation that required the Commission to review the design of private construction abutting certain public areas, like Capitol Hill, Pennsylvania AVenue, and Rock Creek Park. The purpose of this Act was to provide for the kind of orderly development one achieves through careful review of architectural design, thus not only protecting the public values inherent in these areas, but also to protect private investment through the maintenance of reasonable esthetic standards.

Finally, in 1950, Congress enacted legislation that would protect the Georgetown Historic District through design review by the Commission.

In all three cases, the Commission advises the Mayor of the District, with the Mayor retaining the final authority for the issuance or denial of permits for construction. All the legislation I have referred to is detailed in

our brief history of the Commission, a few copies of which I have with me. There are also, besides the executive orders and the legislation, I think you will find references to the organization of the Commission. I have omitted any detailed description in this testimony.

It also contains a history of the development of the city and the role we have played, for those who are interested. In retrospect, we believe this arrangement has worked well over the years and that by and large the purposes of the legislation have been effectively achieved despite the fact that the actual structure of the District government has evolved during this period from a three-commissioner government appointed by the President to its presently elected Mayor and District Council. That this is true gives me reasonable assurance that an advisory relationship could effectively continue with the District government in some other form of organization such as a state. I base this on personal observation and experience in working with the present District government, its Mayor and Council, and, most importantly, its Advisory Neighborhood Commissions. I believe this expanded role of citizens directly involved in the process of local government can be highly beneficial.

For the moment, however, I would like to limit my

commentary to these general observations and to reserve for a later date a more detailed discussion of the draft articles you were kind enough to send me, but which only reached our office yesterday. I know you are working under specially trying time constraints yourselves, and we ask that the record be left open for only an additional ten days. The Commission will be meeting next Wednesday, April 21st, and I will be happy soon after to forward our official comment, including comment on those specific areas of the draft articles which I recognize are of primary interest to you.

If I can answer any additional questions you might have at this time, I will be glad to do so.

MS. NAHIKIAN: Thank you very much, Mr. Atherton, and, as I have indicated earlier, we certainly would be pleased to receive for the record written comments in response to the draft.

Are there questions from the delegates?

I want to just highlight one point that you made which clarified a point for me, Mr. Atherton. You indicated that as your role is now, basically you advise the Mayor regarding issues, but the Mayor retains final authority. So that your role is somewhat different than other quasi-federal agencies which have District representatives sitting on them.

And you think that has worked well?

MR. ATHERTON: It has, and I think that one of the reasons is, especially in the area of esthetics and design, which is our primary responsibility, the feeling has been that to have any kind of ultimate authority is not particularly American in its origins, and that it is also very often a highly controversial and highly charged issue. I think we all feel, we have personal reactions to architectural design and design of monuments, and that in fact if the Commission had been given absolute authority, for example, in implementing its views that we probably even wouldn't be around now; we probably would have been abolished a long time ago, because you would just generate the kind of opposition over the years that I think it would probably be a real problem to survive.

So we have always felt that in the area of esthetic and design review it's much better to perform in an advisory capacity than it is to have any kind of ultimate authority in the thing.

MS. NAHIKIAN: Delegate Moore?

MR. MOORE: Yes, Mr. Atherton, I just wanted to make one comment. I see on your last page, on page 3 at the top of the page, that you state "That this is true gives me

reasonable assurance that an advisory relationship..." and that you would like to continue this function as a state, in the same capacity that you are in now.

MR. ATHERTON: Well, what I am saying essentially is that I think it could work; I think it really is up to the wishes of the District of Columbia residents and in the context of what Congress ultimately does.

But I think that it is conceivable, without stretching the imagination, that it could work pretty well. We find, frankly, that our role in the city has been strengthened in many ways through the advent of home rule. The very fact that there is a structure that you can go to individual citizens' groups and explain issues to them is something that didn't exist before. You had to deal primarily with a very small number of people, and if they didn't happen to agree with you you were in trouble, you really had nowhere to go. In the way it is set up now, we have an avenue to go to the people and really muster support for ideas that we feel are important in the city. So I think that it is really just the development of that same idea.

MS. NAHIKIAN: Your funding is federally funded.

MR. ATHERTON: It is, exclusively federal funding.

MS. NAHIKIAN: Through any particular federal

agency or ---

MR. ATHERTON: No, independent federal agency.

MS. NAHIKIAN: Delegate Street?

MS. STREET: Mr. Atherton, doesn't your Commission have responsibility for the streets in terms of the esthetic nature--trees, plantings--do you have anything in that area as your responsibility?

MR. ATHERTON: Only from the point of view if there is a problem that we see, we don't hesitate to comment, but it has never been outlined in any kind of written or formal structure. For example, we are very concerned about the proliferation of sidewalk cafes now. We have appeared before Councilman Clarke's committee on two occasions offering testimony on this matter. We have no real authority in it at all; we have no responsibility; it is just something that we feel is terribly important to the appearance of the city--our street trees, our sidewalks, and so forth; the advertising that appears in our public space is something we think affects the whole appearance of the city. And so if it appears to us to be a problem, we wont hesitate to go either to the Mayor or to the City Council, or to the appropriate District government office and say this looks to me like it is a real problem, let's do something about it.

And that is the manner in which it goes.

MS. NAHIKIAN: Thank you. Delegate Maguire?

MS. MAGUIRE: The Commission is independent, federally funded agency thats role is to suggest to the Mayor ways to make the city look nicer.

MR. ATHERTON: That's right. But to also more directly react to specific proposals. We don't come up with random ideas and write to the Mayor and say this is the way you really ought to do things. Primarily it's a role in which we are reacting to various proposals. Now, this varies somewhat.

We recommended to the Mayor a long time ago that Georgetown waterfront be made a park; it hasn't materialized that way, unfortunately. But we didn't hesitate to at that moment feel that there was a real public interest involved in that question and that we ought to say so.

MS. MAGUIRE: But you presently also work with ANC's?

MR. ATHERTON: Yes, but not in again any formal manner. For example, we are not required, as a federal agency, to notify ANC's, and yet every time we have a meeting of our Georgetown board or every time there is, for example, an issue in Foggy Bottom or Georgetown that we feel is a matter

of real public interest, not just a fence post or some small detail, but something that is a real issue, we will take the initiative and actually call them and say we are going to be considering a proposal that we feel affects your particular neighborhood. We try to do it; I think probably we let a few fall through the cracks every now and then because we don't exactly know who to contact in every case.

But in matters where we are familiar and there is an ongoing project, we make an effort to notify them at every point where there would be a Commission meeting so they would have an opportunity to testify or comment in some fashion.

MS. NAHIKIAN: Delegate Jordan?

MR. JORDAN: Yes, I am happy that you appear before us this morning, and after I listen to your testimony I don't see any irreconcilable conflict between maintaining the relationship that we have. The only question I would raise is do we include that in the constitution or does that have to be a part of our Admissions Act, and I would just like your viewpoint on that.

MR. ATHERTON: Well, I certainly wouldn't think it would have to be a part of the constitution. I am not sure to what extent it would be covered specifically in the

Admissions Act, or it might be covered in some blanket way. I am not clear, on the Home Rule Act, whether the Commission of Fine Arts is even mentioned; I don't think it is, but it may be. We never testified or anything, we were never involved in the Home Rule Act, say as contrasted with the Planning Commission, where there were some major changes made.

So our role really went ahead more or less the way it had for many years.

MS. STREET: I would like to make a final comment. Just perusing through the booklets--and I do appreciate this--I see you did have involvement in the design of the subway stations, Metro stations.

MR. ATHERTON: We did, yes.

MS. STREET: Inasmuch as we have other Metro stations to be constructed in the future, I would like to keep you on.

MR. ATHERTON: Well, I appreciate that.

MS. STREET: When we become a state, you can continue that function of having [inaudible].

MR. ATHERTON: Well, that has always been a concern of ours, to have some sense that it was a system and not a collection of individual stations, and some people object to

the uniformity, but I think most people tend to agree that it was a good decision basically.

MS. NAHIKIAN: Thank you very much.

MR. ATHERTON: Thank you.

MS. NAHIKIAN: We have had a request from Delegate Ken Rothschild to present testimony to us on issues of local government. We do have some time left before our session ends, so I was going to entertain ---

MS. STREET: Is he going to serve lunch?

MS. NAHIKIAN: Are you going to serve lunch, Delegate Rothschild? You always end up when we have five minutes left to go.

Delegate Rothschild, you don't have a written statement.

MR. ROTHSCHILD: No.

MS. MAGUIRE: Five minutes.

MR. JORDAN: That's unfair. I had it happen to me at a committee meeting, and as I understood the rules of the Convention, delegates, if they want to, from another committee, were to be afforded the same rights as a committee member had, except to vote. But I just have a problem, you know, when you tell delegates, you know, we got five minutes. We have extended the courtesy to others to speak as long as

they wanted to. So, Ken, you've got ten.

[Laughter]

MR. ROTHSCHILD: I'll probably take fifteen.

STATEMENT OF DELEGATE KENNETH

ROTHSCHILD, WARD 2

MR. ROTHSCHILD: First, I'm Ken Rothschild, delegate from Ward 2, I am also an advisory neighborhood commissioner, Dupont Circle Advisory Neighborhood Commission; I am currently serving my third term on that commission, I am currently vice-chair of the commission. I would like to congratulate the Committee on the work that they have done, because very clearly the Committee has put some real thought into what they are doing and has actually had the proposal out before the hearings, which is excellent--to be able to respond to the draft is a wonderful thing.

First of all, I tend to be a critical person, so don't take my criticisms as saying that this is bad, because I like a lot of things in here. I have some problems initially with the terminology used in the breakdown; it's very confusing, particularly I think it would be very confusing for someone who is not into the local governing system to understand the difference between the District councils and the neighborhood council districts and the ward councils, and

I think it should be a more simplified system so that the average citizen can understand it more easily.

As Ann Loikow mentioned, it's very similar to the Advisory Neighborhood Commissions, and I was hoping to see some type of local governing that would be a little bit--have a little bit more authority than the current Advisory Neighborhood Commissions. The frustrations that we experience now in the Dupont Circle Advisory Neighborhood Commission, and I have noted throughout the city, I hope would have been a little better attended to. I think it's going to be an advisory body, and I think we are going to have many of the same problems that the advisory bodies have right now, the great frustrations.

In that regard I think one suggestion that the Committee might want to consider is the possibility of having greater input into the budget process. Currently now the Advisory Neighborhood Commissions submit annual reports to the city, but these for the most part are token reports and I don't think any real great weight is given to the reports. So I would like to see the Mayor's budget process actually have to respond to the ward councils; I would like to see some kind of an input there, a requirement that they have to respond to ward councils.

I would also like to see possibly, or I would like the Committee to consider the possibility of actually having the Mayor submit something to the councils which need their approval, or ask for their approval, regarding the budget, so that there is a give and take back and forth and that they actually do have to spend time thinking about what the councils are asking for.

In another--on another point, our ward councils would be ---

MS. NAHIKIAN: Ken, let me just stop you. Delegate Moore wanted to ask about ---

MR. MOORE: I wanted to ask about the budget. Are you saying the Mayor's budget now or are you talking about the new state? I wanted to get something clear. You said something about the Mayor's budget process.

MR. ROTHSCHILD: I should have said the governor's budget process.

MR. MOORE: Oh, I see, okay.

MR. ROTHSCHILD: The executive budget process should have some link with the ward councils; they should have to ask for their advice and they should have to have a written response to what their advice is and whether or not they are taking it into account, and possibly sending back the proposed

budget for their approval or their comments.

In that record, or in another regard, I would like to consider the differences between what is ordinarily considered a county and what are ward councils. There is a considerable difference in the ability to control the budget; counties have more ability to raise taxes and actually have things that they are supposed to do--take care of roads, and other things. Our councils again would be more of the advisory nature, so I would like to see that advice strengthened, the weight with which that advice is given strengthened. One possibility to consider is that there would be a city-wide body made up of all the ward councils, and that the collective voice of the city-wide council would encompass representatives from each of the ward councils, would then speak with the greater voice than the individual ward councils. Currently now as the Advisory Neighborhood Commission legislation is set up, there are almost obstacles to the ANC's working collectively in unison. So I would like to see those obstacles not only taken away, but I would like to see encouragement of a city-wide system where that advice could be given more clout.

In regards to clout, I would also like to see more of an input into the legislative process. I would like to

see the legislature have to respond again to the city-wide collective voice of the ward councils; I would like the city-wide council to be able to recommend legislation and I would like to see some type of a required response from the legislative system as to what their advice is.

MS. NAHIKIAN: For the record, I want to make sure, Delegate Rothschild, that you had noted that the ward councils as well as the neighborhood councils require that the local legislators sit on that council.

I think you favor that.

MR. ROTHSCHILD: Oh, very much so; I think that was an excellent idea. And I also, while we are talking about excellent ideas--I do like in Section 7, as was pointed out by the Chair earlier, parts C and D; they both are also strengthening aspects to what is currently now the Advisory Neighborhood Commission system.

But, as I was mentioning, I would like to go further; I would like to go further with the advice that must be responded to in a more official manner, have some type of liaison between the legislature and the ward councils, or the city-wide collective council.

MS. MAGUIRE: Ken, I find some of your ideas sound similar to ours that it would be helpful to me if you could

give a way that you would like to do that. I don't know why you would need a liaison if you have four state legislators on your ward council.

MR. ROTHSCHILD: Okay, what I am essentially recommending is the city-wide grouping of the ward councils, giving it more clout, more of an authority, that this was a city-wide concern and a city-wide recommendation of the councils. And ordinarily you would think why would you put your counties together, why would you link one county with another county. But considering ward councils are significantly different from what might ordinarily be considered a county, this would be a strengthening aspect to the ward councils and have a city-wide forum for these councils and give it more clout.

Did you have a question?

MR. MOORE: Yes, my question was, I thought the way we set it up, we were speaking primarily from the beginning of the home rule--I mean, the local government element on the lowest level, and when we started looking at it from the point of the city-wide, we may lose some of that togetherness down on the lower echelon, if we are going to break them up into wards or councils, and then subdivisions and so on. I thought we would lose that individual touch from the

so-called family or community unit, unity.

MR. ROTHSCHILD: Oh, I wasn't saying ---

MR. MOORE: You were stressing more emphasis upon this city-wide all-powerful council.

MR. ROTHSCHILD: I was bringing out things--that doesn't detract from what you have; in other words, what you have is a very local aspect to your governing system, by your neighborhood councils and so forth. What I am recommending, though, is a way of coordinating all the little parts into a central voice so that the neighborhood parts feed into one system and that one system speaks with more authority in terms of recommendation of legislation and actually speaking to the executive branch and to the legislative branch. It would just give more authority to what you already have, but it would not detract from what you have.

It could meet on a quarterly basis, it could meet on a less-regular basis than these other things, because I can see that everybody would be up to their necks in meetings on these things.

MR. MOORE: One other question and I will let you go. I was just concerned about this large city-wide thing. Will we be also satisfied--satisfying the individual interest like [inaudible] member district interest down at that level

if it's city-wide, because you would have differences, I understand, in the areas as far as, you know, area composition, demeanor, attitude, culture, means, finance, you know, whatever. That would be a difference.

MR. ROTHSCHILD: Well, again, the neighborhood councils would have the same authority that they currently have; in other words, what I am recommending in a sense is just the coordinating of all the little parts, but I am not suggesting that anything that is currently recommended in your draft be taken away; they would still have everything here, but it would give more clout to the overall system of neighborhood governance.

Another question that I raise to the Committee would be what actually happens if the legislative committee, or the committee on the legislature, decides not to have eight wards. I would assume that then you would have to go back to your draft and redesign your draft. That's just a question.

MS. STREET: We have recognized that there has got to be some coalescing with the legislative branch, and that has not occurred yet.

MR. ROTHSCHILD: Okay, thank you, that was just a question I had.

MR. SCHRAG: I will add that the Legislature Committee had a meeting last night, and the matter was not voted upon but it looked like there was a large degree of consensus around having eight major geopolitical divisions.

MR. ROTHSCHILD: Okay. Also, another important point in regards to the frustrations that the current Advisory Neighborhood Commissions now experience are their ability to control their budget. I would like to see in the legislation or in the proposal for local government some type of a clear giving of authority to the neighborhood councils and to the ward councils to control their budgets. If the ward council were to elect to receive their funds on a quarterly allocation basis, or whatever basis they wanted to receive it on, that should be by their decision and by their determination, not to be established, as it is now, by the city, where the city basically can hold up a lot of the functions of the local councils because they don't get their allocations on time.

So I would like to see more independence in controlling the budget with the neighborhood councils, with the neighborhood district councils and with the ward councils.

I think that about covers everything I wanted to say.

MS. MAGUIRE: May I ask a question here?

MS. NAHIKIAN: Two questions here. A quick question: when you are talking about greater independence in terms of wards or counties, whatever we may call them, controlling their budgets, John McKoy earlier, and certainly members of the Committee, have debated at great length this issue of budget control, and the point being that some counties, or wards, as they are now called, obviously would have much more financial resources than other counties, unless there is some kind of formula that makes sure there is an equalization of those services, not according to the tax revenue but according to population and need.

And I assume, then, you are saying that we need to strengthen the role of the ward councils in independence regarding budget, that you would favor some kind of equalization formula or equalization of actual dollars coming into the county or into the ward, based on population and need, not necessarily on tax revenue.

MR. ROTHSCHILD: Exactly, yes; in other words, what you have currently in your proposal is satisfactory to me, where there would be a balancing of the monies allocated to the ward councils. But I am talking about that money which is allocated, their control over that, so that it is

not dished out in little bits and it's a continuous calling into the central office to say when are we going to get our monthly or our quarterly allocation which is currently the system. In other words, they would get their annual allotment or they would be entitled to getting their annual allotment--they could elect to have it broken down into quarters or monthly, or whatever system they preferred. But right the way it is now, the central authority controls how the money is alloted, and it becomes a nuisance, quite frankly. I have been treasurer of the Dupont Circle Advisory Neighborhood Commission, and I have spent endless time on the phone trying to get our quarterly allocations. So I would like to facilitate that.

One other thing that I think is excellent in your report is that you don't put a limit on the ability of the councils to go to the judicial branch. That currently is in the Advisory Neighborhood Commission legislation, where there is a restriction on the ability of the Advisory Neighborhood Commissions to go to court. I am glad to see that that has been omitted from your proposal.

MS. MAGUIRE: Ken, do you see yourself as an average citizen?

MR. ROTHSCHILD: I don't see myself as an average

anything, no.

MS. MAGUIRE: My question, to follow up that, is what didn't you understand about the draft?

MR. ROTHSCHILD: Okay, there's nothing--I don't see myself as an average citizen in the amount of interest or time that I would put into trying to comprehend the breakdowns and divisions and ---

MS. MAGUIRE: Average intelligence?

MR. ROTHSCHILD: No, all right, look ---

MS. MAGUIRE: I don't understand what you mean.

MR. ROTHSCHILD: All right, I will give you an example. When I go out to campaign for or solicit signatures for a petition for the Advisory Neighborhood Commissions, I am always explaining to people exactly what an Advisory Neighborhood Commission is.

MS. MAGUIRE: This is much simpler than ANC's.

MR. ROTHSCHILD: I am not talking about the structure, I am talking about somewhat of the terminology; in other words, for people to keep clear the difference between a neighborhood council, a neighborhood council district, and a neighborhood district, and the ward council--it's merely a matter of terminology; I think if the terminology could ---

MS. MAGUIRE: I think after today's testimony from

several people, the Committee is probably going to reconsider a lot of its names ---

MR. ROTHSCHILD: I wasn't speaking to the structure. I would, however, question whether or not we want so many layers, but I am not so sure, I don't have any recommendation in place of it.

MS. NAHIKIAN: You know, on the face of it, it looks like a lot of layers, but in reality it's not, because it's only two layers, because it's the same people at the ward council as at the neighborhood district.

MS. MAGUIRE: If I could just comment on your city-wide thing, which might, if you look at it this way, maybe give you a little more assurance. The way that we kind of structured up dealing with issues and concerns of ward councils is by delegating responsibilities to different ward council members. For an example, saying that there are twelve executive departments--DOT, whatever--one ward council member would be responsible for monitoring that particular agency, be responsible for that ward, which would give you eight people monitoring that department, one from each of the ward councils, which eight people meeting together would constitute a city concern, and it wouldn't be on the whole--but, say, you know, the eight ward council members monitoring the

Department of Transportation, certainly would be a great weight for a city voice. There is nothing stopping people organizing on a city-wide level; there is nothing to stop that.

MR. ROTHSCHILD: Okay, that's a very good division of labor, as you just suggested. I didn't see that laid out here. I suppose it is an option that a ward council could ---

MS. MAGUIRE: No, that's in here.

MR. ROTHSCHILD: Oh, it's in there? Okay, I missed it.

MS. NAHIKIAN: If you look at section ---

MR. JORDAN: Section 6(d).

MS. NAHIKIAN: On page 2.

MR. ROTHSCHILD: Okay, "Delegates, particular members, are responsible for oversight, as described above." Okay, it didn't register with me what that actually meant.

In regards, though, to your comment on my comment, I still think, however, that there are many things that neighborhoods would like to respond to on a city-wide basis, as a city-wide voice.

MS. MAGUIRE: But there is nothing prohibiting that.

MR. ROTHSCHILD: There's nothing prohibiting it, no, but I am just suggesting the possibility that it might

actually be part of the structure recommended.

MS. NAHIKIAN: Delegate Moore had a question. We are right at our 2 o'clock hour. Delegate Jordan and Delegate Street.

MR. MOORE: I wanted to get your comment on page 1, establishing districts, and it says "The state shall have eight wards." Now, given this, what would be your recommendation as to how many legislators that the legislative committee should have, how many would you recommend? 24? 32?

MR. ROTHSCHILD: As an absolute number?

MR. MOORE: Yes. Do you have a number in mind that you would like to see?

MR. ROTHSCHILD: The numbers that you just threw out to me are quite acceptable. I don't have a specific number. As this Committee knows, I have a certain proposal on how the legislature would be divided other than just by geographic, and I am going to ---

MR. MOORE: How many legislators do you think we should recommend?

MR. ROTHSCHILD: The numbers that you just threw out, I have no specific number in mind.

MR. MOORE: 24, 32?

MR. ROTHSCHILD: The range that you just suggested,

in the twenties or thirties, is quite acceptable to me.

If you are asking, I don't want to see a lot of--a tremendous large number of legislators. I know some people are leaning towards that direction.

MS. NAHIKIAN: Delegate Jordan?

MR. JORDAN: Yes, I just wanted to make one comment. On this idea that the councils could come together on a city-wide basis, you could have a situation, though, where there could be a possible conflict of interest develop, or this city-wide body could create some problems between itself and the legislature at some point, because you have legislators sitting on it.

So I wanted you to think through that, because you don't want to create a situation where you would make it almost impossible for a legislator to do his job in the legislature by coming together on a city-wide basis. You may bind him or force him into a posture in this city-wide organization or the city-wide structure that he would not be able to exercise--which would not permit him or allow him to exercise his responsibilities in the legislature.

MR. ROTHSCHILD: It's a good point. And my thinking on that was that essentially the ward councils being constructed as they are as essentially advisory bodies, they would not

in any way be co-equal partners with the legislature. It would still be on an advisory basis. It would just give that advice stronger voice.

But I don't see any conflict of actual jurisdiction of power, in the sense that it is clear what the legislature is supposed to do and it is clear that the councils are not into that process.

So it's actually because it is so weak that I wanted to elevate its voice.

MS. NAHIKIAN: The public hearings of the Committee on Local Government, Intergovernmental Relations and Transition will recess until 6 p.m. tonight in the same room.

Thank you.

[The Committee recessed at 2:05 p.m., to reconvene at 6 p.m. the same day]